

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JIM T. GLOVER, JR.,)	CASE NO. 1:18-cv-1134
)	
Plaintiff,)	
)	JUDGE DONALD C. NUGENT
vs.)	
)	
CORPORAL BOARDMAN, et al.,)	
)	
Defendants.)	

**DEFENDANTS BOARDMAN AND IRION’S ANSWER TO PLAINTIFF’S COMPLAINT
(JURY DEMAND)**

Now come Defendants Corporal Steve Boardman and Officer Philip Irion, Jr., by and through counsel, and submit for their Answer to Plaintiff’s Complaint the following.

1. Plaintiff’s Complaint has been reviewed by this Court under 28 U.S.C. 1915(e)(2), wherein substantial portions of Plaintiff’s Complaint were dismissed. R. 5, Memorandum and Order, 12-21-18. As appropriate, Defendant’s Answer will refer to this Court’s Order.
2. Further, Plaintiff’s Complaint lacks paragraph numbers or consistent pagination. As such, Defendants will refer to the pagination of the electronic filing of Plaintiff’s Complaint and attached affidavits. R. 1 and R. 1-1 respectively. Further, as Plaintiff’s Complaint contains some generic form language, Defendants will ignore form language in Plaintiff’s Complaint unless specifically relevant.
3. Answering Pages 1 and 2 of Plaintiff’s Complaint, there are no allegations requiring answer by these Defendants.

4. Answering Page 3 of Plaintiff's Complaint, Defendants deny any and all allegations of cruel and unusual punishment and inappropriate supervision.
5. Answering Pages 4 and 5 of Plaintiff's Complaint, Defendants deny Plaintiff's allegations against these Defendants. Answering the remainder of allegations against other persons or parties contained, Defendants deny or deny for want of information the allegations contained therein.
6. Answering Page 6 of Plaintiff's Complaint, Defendants admit that the Cuyahoga County Correctional Center ("CCCC") does have grievance procedures that cover Plaintiff's claims against these Defendants.
7. Answering Page 7 of Plaintiff's Complaint, Defendants admit that Plaintiff filed a grievance related to allegations against these Defendants. The CCCC investigated the grievance and found the allegations to be unfounded. Plaintiff did not appeal the result of the grievance. Defendants deny or deny for want of information the remaining allegations in Page 7 of Plaintiff's Complaint.
8. Answering Page 8 of Plaintiff's Complaint, Defendants deny or deny for want of information Plaintiff's allegations regarding CCCC's grievance response.
9. Answering Pages 9, 10 and 11 of Plaintiff's Complaint, there are no allegations requiring answer by these Defendants.
10. Answering Pages 1 through 6 of attachment 1-1 to Plaintiff's Complaint (attached affidavits), Defendants deny or deny for want of information the allegations contained therein. Further, these affidavits related to claims and persons specifically dismissed by this Court. See R. 5.
11. Answering Pages 7 to 8 of attachment 1-1 to Plaintiff's Complaint (attached affidavit), Defendants state that on December 26, 2017, Corporal Boardman sprayed

Oleoresin Capsicum (a.k.a. “pepper spray”) on inmate Plaintiff after Plaintiff became insubordinate during breakfast service. Corporal Boardman applied pepper spray to Plaintiff’s face and torso. Officer Irion assisted Corporal Boardman in restraining Plaintiff. Plaintiff was handcuffed and ordered into a restraint chair per protocol. After being secured, Plaintiff was then decontaminated and brought to CCCC’s medical staff. Defendants deny the remaining allegations contained in Pages 7 and 8 of attachment 1-1 to Plaintiff’s Complaint.

12. Answering Pages 9 through 11 of attachment 1-1 to Plaintiff’s Complaint (attached affidavit), Defendants deny or deny for want of information the allegations contained therein. Further, these affidavits related to claims and persons specifically dismissed by this Court. See R. 5.

AFFIRMATIVE DEFENSES

13. Plaintiff’s Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

14. Defendants are entitled to qualified immunity.

15. Plaintiff has failed to sufficiently serve process on these Defendants.

16. Plaintiff has failed to exhaust administrative remedies.

WHEREFORE, having fully answered, Defendants pray that Plaintiff’s Complaint be dismissed and that they go hence without cost or delay. In the alternative, Defendants request a trial by jury on all issues herein.

Respectfully submitted,

MICHAEL C. O’MALLEY, Prosecuting
Attorney of Cuyahoga County, Ohio

By: /s/ Robert F. Cathcart

ROBERT F. CATHCART (001747)
Assistant Prosecuting Attorney
The Justice Center, Courts Tower
1200 Ontario Street, 8th Floor
Cleveland, Ohio 44113
Tel: (216) 443-7218 Fax: (216) 443-7602
Email: rcathcart@prosecutor.cuyahogacounty.us
*Attorney for Corporal Boardman and Correctional
Officer Irion*

CERTIFICATE OF SERVICE

I hereby certify that on January 25th, 2019 a copy of the foregoing Defendants Corporal Boardman and Correctional Officer Irion's Answer to Plaintiff's Complaint was sent via regular U.S. mail to the following:

Jim T. Glover, Jr.
#A752050
Trumbull County Correctional Institution
5701 Burnett Road
Leavittsburg, OH 44430

/s/ Robert F. Cathcart
ROBERT F. CATHCART (0071747)
Assistant Prosecuting Attorney